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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/883,364	06/19/2001	Johannes Hendrikus Van Lith	PB0013/US	1078

466 7590 01/14/2003

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EXAMINER

JOHNSON, VICKY A

ART UNIT	PAPER NUMBER
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3682

DATE MAILED: 01/14/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/883,364

Applicant(s)

VAN LITH ET AL.

Examiner

Vicky A. Johnson

Art Unit

3682

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 22 October 2002.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1, 2, 4, 6 and 8-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 4, 6 and 8-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 2, 4, 6, 8 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Masuda et al (US 5,169,369) in view of Takagi (JP-1-247841).

Masuda et al disclose a driving belt comprising: a carrier consisting of two endless band packages (34) lying side by side (see Fig 6), on which transverse elements (32) are disposed, wherein each transverse element includes two recesses (68) positioned opposite each other for receiving the band packages (see Fig 6), so that a first part (36) of the transverse element extends under the band packages, a second part (40) of the transverse element is positioned between the band packages, and a third part (38) of the transverse element extends above the band packages, wherein the front side of the transverse element includes a tilting line (L) extending in a horizontal direction and forming a transition between a part of the element at least including the third part (38) that has a constant thickness and a part of the element wherein the thickness tapers downward away from the tilting line (see Fig 6), a projection (72) which can mate with a recess (80) in the adjacent transverse element, wherein the projection and the recess are at least partially formed in the second part of the transverse element (see Fig 6) and wherein the projection is disposed some distance above the tilting line

(see Fig 6), which has a distance small than the smallest vertical component of the recess (see Fig 6).

Masuda et al do not disclose that the projection extends in the horizontal direction and the rear side of the transverse element includes a recess, which likewise extends in the horizontal direction.

Takagi discloses that the projection extends in the horizontal direction and the rear side of the transverse element includes a recess, which likewise extends in the horizontal direction.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the projection and recess of Masuda et al to extend in the horizontal direction as taught by Takagi in order to improve the efficiency of power transmission (Abstract).

Re claim 2, Masuda et al show the projection and the recess are entirely located in the second part of the transverse element (see Fig 6).

Re claim 4, Takagi shows and renders obvious the projection and the recess extend in the transverse direction over the entire area of the transverse element between the two recesses (see Fig 3).

Re claim 6, as best understood, Takagi shows and renders obvious the surface of the projection and the recess comprises parts, which extend at an angle to a horizontal line in the plane in which the band packages lie (see Fig 3).

Re claim 8, Masuda et al disclose the claimed invention as described above, but do not disclose the transverse element being made from a strip of material.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the transverse element from a strip of material, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416.

3. Claims 9 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Masuda et al (US 5,169,369) in view of Takagi (JP-1-247841) as applied to claims 1, 2, 4, 6 and 10 above, and further in view of Maruyama (EP-421804).

Takagi discloses the claimed invention as described above, but does not disclose that the edges of the transverse element have been deburred.

Maruyama discloses that the edges (10) of the transverse element have been deburred and rounded (see Fig 1).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include round the edge of the transverse element as taught by Maruyama in the driving belt of Masuda et al so that the transverse element comes into firm contact with the pulley walls (col. 3 lines 44-53).

The method of forming a device is not germane to the issue of patentability of the device itself. These limitations, "a cutting operation" and "a tumbling operation", have not been given patentable weight.

#### ***Response to Arguments***

4. Applicant's arguments with respect to claims 1, 2, 4, 6, 8 and 9-11 have been considered but are moot in view of the new ground(s) of rejection.

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***Conclusion***


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vicky A. Johnson whose telephone number is (703) 305-3013. The examiner can normally be reached on Monday-Thursday (7:00a-5:00p).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A. Bucci can be reached on (703) 308-3668. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-7687 for regular communications and (703) 305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

vaj  
January 13, 2003

VAG 1/13/03

  
**Thomas R. Hannon**  
Primary Examiner